

SCOTT N. SCHOOLS (SC 9990)  
 United States Attorney  
 JOANN M. SWANSON (CSBN 88143)  
 Chief, Civil Division  
 MELANIE L. PROCTOR (CSBN 228971)  
 Melanie.Proctor@usdoj.gov  
 Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
 San Francisco, California 94102-3495  
 Telephone: (415) 436-6730  
 FAX: (415) 436-6927

Attorneys for Defendants

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

|   |   |                       |
|---|---|-----------------------|
| STEPHEN CHANG and HONGYAN               | ) | No. C 07-3562 SBA     |
| CHEN,                                   | ) |                       |
|   | ) |                       |
| Plaintiffs,                             | ) |                       |
|   | ) |                       |
| v.                                      | ) | JOINT CASE MANAGEMENT |
|   | ) | STATEMENT             |
| MICHAEL CHERTOFF, Secretary,            | ) |                       |
| Department of Homeland Security;        | ) |                       |
| ROBERT S. MUELLER, III, Director of the | ) |                       |
| Federal Bureau of Investigation,        | ) |                       |
|   | ) |                       |
| Defendants.                             | ) |                       |

1. Jurisdiction and Service: There are no issues concerning personal jurisdiction. Plaintiffs brought this Complaint under 28 U.S.C. §§ 1331 and 1361, and under the Administrative Procedure Act. All parties have been served.

2. Facts: On February 1, 2006, Plaintiff Chang filed a Form I-130 visa petition on behalf of his wife, Plaintiff Chen, who filed a Form I-485 application for adjustment of status to Legal Permanent Resident with USCIS on the same date. On July 10, 2007, Plaintiffs filed this Complaint for a Writ in the Nature of Mandamus, alleging that Defendants are unlawfully withholding or unreasonably delaying action on Plaintiffs' I-130 petition and I-485 application, and asking the Court to compel USCIS to adjudicate his application for adjustment of status. Plaintiff Chen's name check is still pending with the Federal Bureau of Investigation.

1           3. Legal Issues: The principal legal issue the parties dispute is whether the Court has  
2 jurisdiction to compel agency action in this case and if so, whether a writ a mandamus should issue  
3 to remedy Defendants' alleged unreasonable delay in adjudicating Plaintiff's application.

4           4. Motions: On September 10, 2007, Plaintiff filed a motion for summary judgment. On the  
5 same date, Defendant Mueller moved to dismiss the Complaint against him, and Defendant Chertoff  
6 answered the Complaint.

7           a. Summary Judgment Motion: Defendants timely opposed Plaintiff's Motion for  
8 Summary Judgment and cross moved for summary judgment. Plaintiffs replied to Defendants  
9 opposition and opposed Defendants' cross motion. The Court denied Defendants' request for leave  
10 to reply to Plaintiffs' opposition to Defendants' cross motion for summary judgment.

11           b. Motion to Dismiss: Plaintiffs timely opposed Defendant Mueller's Motion to  
12 Dismiss, and Defendant Mueller replied to that opposition. The Court requested additional briefing  
13 on the issue of jurisdiction over Defendant Mueller, which has been completed.

14           5. Amendment of Pleadings: None.

15           6. Evidence Preservation: None.

16           7. Disclosures: The parties agree that this Court's review will be confined to the  
17 administrative record and therefore this proceeding is exempt from the initial disclosure  
18 requirements under Fed. R. Civ. P. 26.

19           8. Discovery: There has been no discovery to date and the parties believe this matter can be  
20 resolved without discovery. No experts will be designated.

21           9. Class Actions: Not applicable.

22           10. Related Cases: None.

23           11. Relief: Plaintiff asks the Court to direct the agency to adjudicate his adjustment of status  
24 application and asks for an award of attorneys' fees. This case does not involve damages.

25           12. Settlement and ADR: The parties filed a Joint Request to Be Exempt From Formal ADR  
26 on September 28, 2007.

27           13. Consent to Magistrate Judge for All Purposes: Plaintiff does not consent to assignment  
28 of this case to a United States Magistrate Judge.

14. Other References: None.

15. Narrowing of Issues: None.

16. Expedited Schedule: The parties believe this matter can be solved through the motions.

17. Scheduling: None necessary.

18. Trial: The parties believe the matter can be resolved through the motions for summary judgment.

19. Disclosure of Non-party Interested Entities or Persons: None.

20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter: None.

Dated: November 26, 2007

Respectfully submitted,

SCOTT N. SCHOOLS  
United States Attorney

/s/  
MELANIE L. PROCTOR<sup>1</sup>  
Assistant United States Attorney  
Attorneys for Defendants

Dated: November 26, 2007

/s/  
JUSTIN WANG  
Attorney for Plaintiffs

### CASE MANAGEMENT ORDER

The Joint Case Management Statement and Proposed Order are hereby adopted by the Court as the Case Management Order for the case, and the parties are ordered to comply with this Order.

Dated:

SAUNDRA BROWN ARMSTRONG  
United States District Judge

<sup>1</sup>I, Melanie L. Proctor, hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this efiled document.